IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1124 OF 1995.

Smt.Saraswati Murlidhar Kambale
& Others. .. Appellant

vs.

Prakash B. Chogule
& Ors. .. Respondents.

Shri U.B.Nighot, Advocate for the Appellant.

Shri N.V.Walawalkar, Advocate for the Respondent.

CORAM : D.G.DESHPANDE, J.

DATED : 20th january, 2005.

P.C. :

1. Heard the learned AGP for the appellant and the respondent. This appeal is filed by the original claimant for enhancement of compensation. The deceased was Octroi Inspector. He met with an accident at the age of 45 to 46 years. The claimants are his dependants i.e. wife and children. The deceased died at ripe age when the

entire family was depend on him. His salary, as per the certificate issued by the Sangli Municipal Council, was Rs.1829/-. The tribunal made deduction of 10% and accepted Rs.1646/- as take home salary. From that the Court deducted Rs.600/- on account of personal expenses and took Rs.1046/- on the basis of law of dependancy. Thereafter multiplier of Rs.10/- was adopted and compensation granted as per the final order. It is this order which is challenged by the appellant.

. The appellant contended that firstly the deduction of Rs.600/- towards personal expenses is wrong. Looking to the number of members of the family number of deduction should be 1/4th . It comes to Rs.412 out of Rs.1646/-. Then according to him multiplier of 10 applied is also not proper. According to him multiplier of 15 should have been adopted. He also claimed that the deceased was belonging to Backward Class and there was strong chance of promotion and increase in salary. Therefore, according to him the compensation prayed by the claimants in the lower

Court should have been awarded.

. There is no material on record to held that the deceased could have secured promotion. Further there is nothing on record to show that at what age promotion was expected and what would have been the salary after promotion and to which post. In the absence of all this particulars this submission can not be accepted.

. However, deduction of Rs.600/- towards personal expenses in a family of 6 members from Rs.1646/- does not appear to be proper. The deduction of Rs.412/- at any rate dependency of Rs.1200/- would have been proper. The multiplier of 10 does not appear to be proper looking to his age of 46 years. The multiplier of 12 instead of 16 as prayed would have been proper. Therefore, considering this fact, the claimants are entitled to compensation of Rs.1,72,800/-. The Counsel for the appellant also contended that the amount of Rs.8,000/- granted by the tribunal towards loss of consortium and loss of love and affection is not proper. There is considerable force in this

submission because not only wife lost her husband, but the children when they were attending majority have lost their father. Therefore compensation on this ground requires to be enhanced to Rs.25,000/-.

. The learned Counsel for the respondent on the other hand contended that there is no justification in the grounds raised by the appellant and the dependency of Rs.1046/- is applicable and multiplier of 10 is proper and no enhancement is required to be granted.

. However, for the reasons stated above the appeal is required to be partly allowed. However, compensation of Rs.1,99,800/- under different heads is awarded with the interest granted by the tribunal. Rest of the order of the tribunal about investment and distribution of claim shall remain the same.

. Those of the claimants who have become major shall be entitled to withdraw the entire amount, upon proof of age to the tribunal.

(D.G.Deshpande, J.)